

REMARKS

The following Restriction Requirement was issued under 35 USC §121:

- Applicants are required to elect a single domain from each of parts (a)(i) and (a)(ii) of claims 247 and 306.
- Applicants are required to elect a single binder from claim 251.

In order to be responsive, Applicants make the following elections with traverse:

- (a) claims 247 and 306(a)(i): a linear nucleic acid complementary to a sequence of said specific nucleic acid component ;
- (b) claims 247 and 306 (a)(ii): an antibody that recognizes an epitope on the surface of said cell of interest ;
- (c) claim 251: polymer

Applicants traverse the Restriction Requirement for the following reasons.

First, Applicants notes that claims 247, 251 and 306 are Markush claims. MPEP 803.02 states:

If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they may be directed to independent and distinct inventions. In such a case, the examiner will not follow the procedure described below and will not require provisional election of a single species.

In Applicants' view, there are only two member of the Markush group in claims 247 and 306 (a)(i), three members in claims 247 and 306 (a)(ii) and three members in claim 251. This would certainly not constitute an undue burden. Even assuming *arguendo* that the Examiner's assertion is correct, this should be an election of species.

Secondly, Applicants note that in claim 251, the binder is a polymer, matrix, support or combination of the foregoing. They all share a common feature, they all contain at least one domain. Applicants also note that a support may be a

matrix or polymer. Furthermore, a matrix may be a polymer. Thus, there is overlapping subject matter and restriction would not be proper.

In view of the above arguments, Applicants respectfully request that the Restriction Requirement be withdrawn. If a telephone conversation would further the prosecution of the present application, Applicants' undersigned attorney request that he be contacted at (914) 712-0093.

Respectfully submitted,

/Cheryl H Agris/

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